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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communication Commission
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In the Matter of

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Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcasting Stations,
(Richlands, Shallotte, Topsail Beach, and
Wrightsville Beach¹, North Carolina)

MB Docket No. 05-16
RM-11143

To: Assistant Chief, Audio Division, Media Bureau

Federal Communications Commission
Office of the Secretary

REPLY COMMENTS OF CONNER MEDIA CORPORATION

Conner Media Corporation ("Conner"), by its attorney, pursuant to Sections 1.415 and 1.420 of the Commission's rules, hereby respectfully submits its initial Reply Comments in the captioned matter.

Conner respectfully notes that it filed Comments and a timely Counterproposal on March 21, 2005. Therein, it demonstrated that all of the relief sought by Sea-Comm, Inc. ("Sea-Comm") in the Commission's *Notice of Proposed Rulemaking* herein, DA 05-76, released January 28, 2005 ("*NPRM*") could be realized, together with substantial additional public interest benefits that would result from the substitution of Swansboro for Richlands and the consequent upgrade of station WZUP(FM), La Grange, North Carolina from Class C3 to Class C2. Conner assumes that, upon acceptance of its Counterproposal, the Commission will issue a Public Notice setting a date for further reply comments directed to its Counterproposal. In the meantime, Conner offers the following brief observations with respect to the only other set of comments submitted herein – by Sea-Comm on March 10.

¹ We assume that at some future point the communities of La Grange and Swansboro will be added to the caption, pursuant to the Counterproposal which was timely submitted herein.

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In its comments, Sea-Comm incorporates by reference the “*Tuck*” showing from its April 12, 2004 Petition for Rulemaking which, in turn, triggered the *NPRM*. At Note 1 of its Comments, Sea-Comm claims that by mere virtue of having issued the *NPRM*, the Commission must have been satisfied with its *Tuck* showing. That clearly is not true, since at Paragraph 2 of the *NPRM* the Commission specifically required Sea-Comm to provide a *Tuck* showing. Obviously, had the staff been satisfied with the submission Sea-Comm had already made, there would have been no need to request that a presumably more complete showing be submitted. Even so, Sea-Comm apparently is content to rest its case upon the showing it provided in its Petition. Yet, as Conner demonstrated in its Comments, Sea-Comm’s existing *Tuck* showing is inadequate to justify crediting its proposal for providing a first local service to Richlands. Consequently, having failed to avail itself of the opportunity to submit a further *Tuck* showing, Sea-Comm is relegated to relying upon the showing it submitted in its Petition, which it incorporates by reference into its Comments. For the reasons set forth in Conner’s Comments, that showing is inadequate, and therefore the rulemaking proposal must be evaluated on that basis.

Once Sea-Comm’s proposal to serve Richlands is no longer deemed to provide a first local service, none of the first three priorities under *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91-92 (1982) would apply. Consequently, Sea-Comm’s proposal must be evaluated under the fourth priority of “other public interest matters,” the only applicable public benefit of which would be its expanded population coverage. Conner submits that the *Tuck* showing for its counterproposal allotment of a first local service at Swansboro avoids most of the infirmities of the Sea-Comm showing and therefore should be deemed sufficient to invoke the third allotment priority for that community. Yet, even were both showings to be deemed

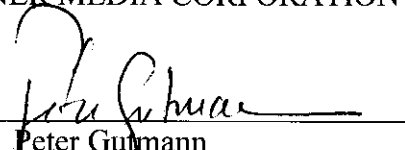
insufficient to establish the independence of the respective communities, then Connor's counterproposal still would be deemed to provide superior fourth priority public interest benefits by virtue of the superior coverage, largely resulting from its upgrade opportunity for WZUP. Alternatively, if both *Tuck* showings were to be accepted, then Connor's counterproposal still would be superior since it would create a first local service at a substantially larger community (priority 3).

For the reasons set forth in Conner's Comments and herein, Conner submits that its Counterproposal would better serve the public interest. Conner further reiterates its present intention to apply for the WZUP upgrade and for the new station it proposes at Swansboro if they are allotted and, if authorized, to build the respective stations promptly.

Respectfully Submitted,

CONNER MEDIA CORPORATION

By


Peter Gutmann
Its Attorney

WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company

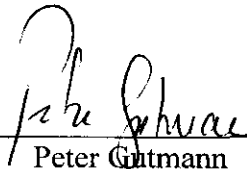
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April 5, 2005

CERTIFICATE OF SERVICE

I, Peter Gutmann, an attorney at the law firm of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that true copies of the foregoing "Reply Comments of Conner Media Corporation" were mailed, postage prepaid on this 5th day of April, 2005, to the following:

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Peter Gutmann